



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

LAL
F.#2013R00126

271 Cadman Plaza East
Brooklyn, New York 11201

December 26, 2013

BY ECF and Hand Delivery

The Honorable Roslynn R. Mauskopf
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Jonathan Simon
Criminal Docket No. 13-112 (RRM)

Dear Judge Mauskopf:

The government respectfully submits this letter in anticipation of the defendant's sentencing hearing presently scheduled for January 15, 2014 at 4:00 p.m. The defendant's Guidelines range is 18 to 24 months of incarceration. The government respectfully requests that the Court impose a sentence within this range.

I. Background

On January 22, 2013, the defendant arrived at John F. Kennedy International Airport aboard a JetBlue Airlines flight from Aruba. (Presentence Investigation Report ("PSR") ¶ 3.) Customs and Border Protection ("CBP") officers conducted a routine examination and noticed that the defendant appeared nervous. During the examination CBP probed the bottom of defendant's bag and found a white substance that field tested positive for cocaine (PSR ¶ 4.) The defendant was placed under arrest and admitted that he was carrying drugs and was expected to be paid \$6,000. (PSR ¶ 5.) The total gross weight of the cocaine recovered from defendant was 1,931 grams with a purity level of 76.4 percent. (PSR ¶ 10.)

On July 16, 2013, the defendant pled guilty to a lesser-included offense of Count One of the indictment, which charged him with importation of cocaine in violation of Title 21, U.S.C. §§ 952(a), 960(a)(1), and 960(b)(3). (PSR ¶ 1.)

II. Guidelines Calculation

The PSR sets forth the following Guidelines calculation, which is identical to the calculation in the plea agreement between the government and the defendant (“Plea Agreement”):

Base Offense Level (§ 2D1.1(a)(5) & (c)(6))	28
Less: Minimal Role (§ 3B1.2(a))	–4
Total:	<u>24</u>

The defendant also received a three-level reduction for acceptance of responsibility, which resulted in an adjusted offense level of 21. As the defendant subsequently satisfied the requirements of the safety-valve, an additional two-level reduction was warranted, resulting in an offense level of 19. As the defendant falls within Criminal History Category I (PSR ¶ 27) his estimated Guidelines range was of 30 - 37 months. (PSR ¶ 46.)

The government has recently adopted a new early disposition program for drug couriers, and has determined that the defendant would qualify for that program. Pursuant to that program, the defendant would have received an additional four-level reduction (based on Guideline § 5K1.3). As a result, the defendant’s adjusted offense level would be 15, and his Guidelines range is now 18 - 24 months.

III. The Appropriate Sentence

The government respectfully requests that the Court impose a sentence within the Guidelines range because the nature of the offense to which the defendant pled guilty is serious and requires a significant sentence for general deterrence purposes. See 18 U.S.C. § 3553(a)(1). Here, the defendant intended to smuggle the narcotics from Aruba to the United States in exchange for \$6,000 dollars. Moreover, this wasn’t the first time the defendant smuggled narcotics to the United States.

The government does not dispute that the defendant’s health issues and lack of criminal history should be taken into account to formulate the appropriate sentence. However, as outlined in the PSR the defendant’s Guidelines range has been significantly reduced to reflect his fulfillment of the Safety Valve requirements, his role in the conduct, and his acceptance of responsibility.

Given the serious nature of the offense and the defendant’s disregard for the law, a sentence within the Guidelines range of 18 to 24 months is appropriate to promote respect for the law, to afford adequate deterrence and to protect the public from further crimes of this defendant. 18 U.S.C. § 3553(a)(2).

IV. Conclusion

For the reasons set forth herein, the government requests the Court to impose a sentence within the applicable Guidelines range of 18 to 24 months of imprisonment.

Very truly yours,

LORETTA E. LYNCH
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